

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Wisconsin Department of Transportation for the Alteration and Improvement of Two Public Crossings of the Wisconsin Central Ltd. Tracks with Camp Phillips Road in the Village of Weston, Marathon County

9164-RX-545

FINAL DECISION

By letter dated March 4, 2004, the Wisconsin Department of Transportation (DOT) petitioned the Office of the Commissioner of Railroads (OCR) under ss. 86.13, 195.28, 195.285 and 195.29 Stats., for the alteration and improvement of two public crossings of the Wisconsin Central Ltd. (WCL) tracks with Camp Phillips Road in the Village of Weston, Marathon County (Crossing Nos. 182 003W and 181 990P). DOT also petitioned the OCR to determine the adequacy of warning devices and to exempt the crossings from the stopping requirement of s. 346.45 Stats.

Pursuant to due notice, public hearing was held in this matter on May 11, 2004 in Madison, Wisconsin with hearing examiner Douglas S. Wood presiding.

On May 14, 2004, the hearing examiner issued a proposed decision. By letter dated July 6, 2004, the DOT filed comments supporting the proposed decision. The DOT did offer comments regarding the vision triangles.

DOT state that it has determined that Marathon County should purchase a permanent limited easement (PLE) for the vision triangles to the west (to the east they are in the highway right-of-way) for the bike path at the southern crossing. The triangle in the southwest quadrant is measured from 185' along the centerline of the path and 80' along the railroad from the west edge of the path. Two triangles make up the vision triangles in the northwest quadrant since the highway vision triangle is not inside of the path crossing vision triangle like it is in the southwest quadrant. The highway vision triangle is defined as a point 281' along the highway and 105' along the track from where the new highway will be constructed (or 64' from the west edge of the path). The path vision triangle is defined as a point 137' along the path and 80' along the track.

The Commissioner amends the order accordingly and otherwise adopts the proposed decision as final.

Appearances:

**Parties**

Wisconsin Department of Transportation, Petitioner  
by  
Mark Morrison, PE  
Grade Crossing Safety Engineer  
PO Box 7914  
Madison, Wisconsin 53707-7914

As Interest May Appear:

Wisconsin Central Ltd.  
by  
Terry Lee, PE  
Manager Engineering Services  
1625 Depot Street  
Stevens Point, Wisconsin 54481

Findings of Fact

THE COMMISSIONER FINDS:

The Wisconsin Department of Transportation proposes that the Wisconsin Central Ltd. alter and improve two public crossings of its tracks with Camp Phillips Road in the Village of Weston.

DOT also petitioned the OCR to determine the adequacy of warning devices and to exempt the crossings from the stopping requirement of s. 346.45 Stats. That section requires certain specified vehicles, such as fuel trucks and school buses, to stop at highway/rail crossings unless posted with an exempt sign.

During the fall of 2004, the DOT and Marathon County plan to construct a multi-use path along Camp Phillips Road (CTH "X") in the Village of Weston. The proposed project would cross the Wisconsin Central Ltd's Kelly-Schofield and Kelly-Wausau lines. The crossings are about 900' apart measured along the roadway.

Camp Phillips Road is about 22' wide with 5'-wide gravel shoulders. Camp Phillips Road intersects the Kelly-Schofield (south crossing) tracks at an angle of about 88°. Camp Phillips Road intersects the Kelly-Wausau (north crossing) tracks at an angle of about 55°. Each crossing consists of one track.

The multi-use path will be 10'-wide and would intersect the tracks at the same angle as the roadway. At the north crossing the DOT plans to widen the pathway on the approaches to the

crossing to allow bicyclists and other wheeled trail users to cross at a more nearly 90° angle. The path will be about 40' to 45' west of the roadway.

Subsequent to the hearing, the railroad determined that the north crossing can be removed as part of the project. The track will be removed only at the trail crossing in 2004. The roadway crossing will be removed as part of the highway project in 2007-2008.

DOT plans to widen Camp Phillips Road from 2-lanes to 4-lanes in the future (2007-2008), but that widening is not part of the current project. However, because of this planned work the DOT proposed to install essentially temporary crossings for the pathway. DOT proposes to simply lay asphalt through the tracks and create a flangeway either by running an engine over the crossing or by using a form during the laying of the asphalt. No work would be done to the track structure. DOT's contractor would install the crossing.

Given the distance from the roadway, the path crossing will need separate warning devices. Crossbucks will adequately protect public safety at the south crossing.

Camp Phillips Road carried 10,250 ADT (average daily traffic) in 2002. The DOT projects Camp Phillips Road will carry 20,900 ADT in the design year of 2020. The speed limit is 35 mph at the south crossing and 45 mph at the north crossing.

The railroad currently operates 2 switch movements per year over the south crossing location at a speed of 10 mph. The Kelly-Schofield line ends just east of the crossing. The railroad does not operate over the north crossing. The track is disconnected and 'red-boarded' west of the crossing so that no trains can reach the crossing under existing conditions.

A driver traveling at 35 mph needs a distance of 281' to stop safely. The south crossing is visible from more than 281' in each direction. Assuming a train speed of 10 mph, a driver traveling at 35 mph needs to see a train when it is 105' from the crossing from a point 281' down the highway. The sight distance available is adequate in the northeast and southeast quadrants. DOT plans to obtain permanent limited easements in the northwest and southwest quadrants and to clear and grub trees and brush to provide adequate sight distance. In addition, a separate vision triangle is needed for the northwest quadrant of the bicycle path crossing. The path vision triangle is defined as a point 137' along the path and 80' along the track.

The order requires that the DOT acquire permanent sight easements to create and maintain a clear view within the required sight triangles in the northwest and southwest quadrants at the south crossing. Since the north crossing is out service, the order does not require the acquisition of sight triangles.

The exposure factor at the north crossing is zero. The exposure factor at the south crossing is zero except on the one day per year when train operations occur. When train operations occur the exposure factor is about 20,500. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

One train-vehicle accident has occurred at the north crossing since 1973. The accident occurred in 1989. No train-vehicle accidents have occurred at the south crossing since 1973.

The Wisconsin Department of Transportation has produced a benefit-cost analysis for all at-grade crossings in the state. Installing new automatic flashing lights with gates and constant warning time circuitry at either Camp Phillips Road crossing has a negative net benefit of about -\$135,000. The benefit-cost ratio is about 0.22 meaning that the public will receive \$0.22 in safety benefits for each dollar expended.

The DOT proposes that the existing active warning devices (8" signals) be removed and replaced with crossbucks only at the south crossing. DOT proposes that 'Tracks Out of Service' signs be installed at the north crossing. DOT proposes that the OCR order the railroad to stop and flag all train moves over the crossings. It should be noted that the existing signals are inoperative. The railroad apparently attempted to get them working but was unable to do so.

Crossbucks will adequately protect public safety at the south crossing based on the adequate sight distance and the infrequency of trains. "Tracks Out of Service" signs are warranted at the north crossing because the track is cutoff west of the roadway.

The Department proposes that the existing active warning devices be removed and replaced with crossbucks only. DOT proposes that the OCR order the railroad to stop and flag all train moves over the crossings.

### **Exempt Status**

The DOT proposes to exempt both roadway crossings of Camp Phillips Road and the WCL tracks from the stopping requirement of §346.45 Wis. Stats. That section requires certain specified vehicles, such as passenger buses and fuel trucks, to stop at all railroad crossings unless posted with an exempt sign.

Camp Phillips Road traffic consists of 4.5% truck traffic and undoubtedly a substantial number of these trucks are required to stop at non-exempt crossings. Typically, about 10% of trucks are required to stop, which would be about 46 per day for these crossings. In addition, there is a school located about 0.25 miles south of the southern crossing.

Exempting these vehicles from the stopping requirement of §346.45, Stats., will promote the public interest, particularly in light of public safety. Train traffic is extremely light and low speed at the south crossing and non-existent at the north crossing. Camp Phillips Road carries a large volume of vehicular traffic, which means there would be frequent conflicts between vehicles required to stop and all other highway traffic.

While the potential for an accident exists at these and all crossings, the Office finds that the factors discussed above indicate that the risk of such an accident is very low at this crossing. Train traffic is very limited at one crossing and non-existent at the other. The state of Wisconsin has developed a very good safety record with exempt crossings, which should continue as long as exemptions are granted only under appropriate circumstances. Vehicle-vehicle accidents, typically rear-enders,

have been reduced by 74% at crossings where exempt status was granted. Conversely, no exempt vehicles have been involved in a train-vehicle accident after a crossing was granted exempt status.

It should also be noted that placement of the "Tracks Out of Service" signs at the north crossing automatically qualifies that crossing for exempt status under s. 346.45 (3) (c).

The order requires the Wisconsin Department of Transportation to install and Marathon County to maintain exempt signs [Sign R15-3 in the Manual on Uniform Traffic Control Devices (MUTCD)] on the sign posts on each approach to each crossing. The order also requires the Wisconsin Department of Transportation to install and Marathon County to maintain yellow-background advance warning exempt signs on the advance warning signs on the approaches to the crossing.

**Source of funding:** The DOT project will fund all costs for the installation of the crossings.

#### Ultimate Conclusions on the Issues

##### THE COMMISSIONER CONCLUDES:

1. That the alteration of the crossing at-grade of Camp Phillips Road with the Wisconsin Central Ltd. tracks in accordance with the design plans of the Wisconsin Department of Transportation in the Village of Weston, Marathon County will promote public safety and convenience.
2. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks at the south crossing and 'Tracks Out of Service' signs at the north crossing.
3. That it is reasonable that the Wisconsin Central Ltd. bear no part of the cost for the crossing construction.
4. That it would promote the public interest to exempt the crossings of Camp Phillips Road with the tracks of the Wisconsin Central Ltd. from the stopping requirement of §346.45, Wis. Stats.

#### Conclusion of Law

##### THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28, 195.285 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

#### Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin Department of Transportation** shall install and the **Wisconsin Central Ltd.** shall maintain a crossing at-grade of the Camp Phillips Road Multi-use Path with the Wisconsin Central Ltd. tracks in accordance with the design plans of the Wisconsin Department of Transportation in the Village of Weston, Marathon County (Crossing No. 181 990P).

2. That the **Wisconsin Central Ltd.** shall remove the existing signals and install and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the **roadway** crossing of its tracks with Camp Phillips Road at-grade in the Village of Weston, Marathon County by **August 15, 2004** (Crossing No. 181 990P).

3. That the **Wisconsin Central Ltd.** shall install and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the **multi-use trail** crossing of its tracks with Camp Phillips Road at-grade in the Village of Weston, Marathon County by **August 15, 2004** (Crossing No. 181 990P).

4. That the **Wisconsin Central Ltd.** shall remove the existing signals and install and maintain 'Tracks Out of Service' signs on each approach to the roadway crossing of its tracks with Camp Phillips Road at-grade in the Village of Weston, Marathon County by **August 15, 2004** (Crossing No. 182 003W).

5. That the **Wisconsin Department of Transportation** shall obtain permanent easements to provide a clear view within the required sight triangles (except that part within the railroad right-of-way) at the **south crossing** in the **northwest and southwest** quadrants. That the **Wisconsin Department of Transportation** shall remove any obstructions within those sight triangles (except that part within the railroad right-of-way), including earth embankments, as part of the project. The triangles are formed by connecting the following points: a) the intersection of the centerline of the roadway and the near rail of the tracks; b) a point 105' down the tracks and; c) a point 281' along the roadway from the near rail of the tracks. That the **Wisconsin Department of Transportation** shall also obtain permanent easements and clear a separate vision triangle in the northwest quadrant of the bicycle path crossing. The path vision triangle is defined as a point 137' along the path and 80' along the track.

6. That **Marathon County** shall install and maintain exempt signs (Sign R15-3 in the MUTCD) on the sign posts on each approach to both crossings of Camp Phillips Road with the Wisconsin Central Ltd. tracks in the Village of Weston, Marathon County by **August 15, 2004**.

7. That **Marathon County** shall install and maintain yellow-background advance warning exempt signs (Sign W10-1a in the MUTCD) on the advance warning signs by **August 15, 2004**.

8. That the Wisconsin Central Ltd. shall bear no part of the cost of the crossing construction, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the

investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

9. That jurisdiction is retained.

Dated at Madison, Wisconsin, \_\_\_\_\_.

By the Office of the Commissioner of Railroads.

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Rodney W. Kreunen  
Commissioner of Railroads

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